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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,670	06/08/2005	Wolfgang Kossl	566/43619	8601
23646 7590 07/07/2008 BARNES & THORNBURG LLP 750-17TH STREET NW SUITE 900 WASHINGTON, DC 20006-4675				
EXAMINER				
TANG, JEFF				
ART UNIT		PAPER NUMBER		
3634				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/522,670

Applicant(s)

KOSSL, WOLFGANG

Examiner

Jeff Tang

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Formal matters

Applicant has a set of claims with "Continuation on page 4 of the Original Specification" at the top, and "AMENDED PAGE" randomly typed on the 2 pages in this set of claims. It does not make sense to examiner. Examiner has examined the 'clean' set of claims submitted the same day.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim.. See MPEP § 608.01(n). Accordingly, the claim not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. RE claims 1-2; It is unclear whether the lifting magnet and the closing magnet are separate or the same magnet since the magnet could change polarity to become a closed or lifted ?

Art Unit: 3634

4. Also in claim 1, "particularly" for a door lock" is unclear – does particularly require the structure?

In claim 1, both the 7th and 9th lines, "or the like" is unclear. The phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Similar problems in claim 3, 4.5.

Claim 7 recites "consists at least essentially of..." and this phrase is by definition unclear. "consists of" is a closed term, but 'at least' implies that other materials are envisioned. This is not possible.

Claim 2 – what is the shape of a double-acting lifting magnet – how and where is the shape defined?

Claim 3 and 4 – how exactly is 'dead-center position' defined?

Claim 4 – in line 4, examiner cannot follow what is meant by :

"directly or indirectly carries rollers (10) with an aligned axis is of rotation parallel to the axis". Examiner assumes the "is" is in error.

Claim 4 – line 4 - 'the axis' lacks proper antecedent basis. More than one axis has been disclosed – each axis must be uniquely referenced.

Claim 6 (off 1 or 2) recites the limitation "at least one permanent magnet " in line 2 but then recites 'the permanent magnet' in line 4. How many magnets are there?

Also in claim 6, the movable part having the ferromagnetic material – where is the antecedent basis for this limitation? .

Claim 7—"at least one permanent magnet – is this in addition to the permanent magnet(s) of claim 6?.

Claims 2-7 are rejected as depending from rejected claim 1.

Examiner has examined all claims as best understood. Note that all claims should be reviewed and corrected in view of the 112 issues described – these examples are not necessarily inclusive of all errors and are non-limiting examples.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **As best understood, Claim 1, 2, and 5 (off claim 1 or off claim 2) are rejected under 35 U.S.C. 102(b) as being anticipated by Fink (US 6,189,265).** Fink discloses a door actuator of rail vehicles comprising a spindle drive whose spindle (12) is connected with a freewheel (23) permitting the rotation of the spindle in the direction corresponding to the closing direction of the door and preventing the rotation of the spindle in the direction corresponding to the opening direction, a part of the freewheel away from the spindle being rotatable mounted but being releasably fixed with respect to a release device against the force of at least one contact pressure spring by means of a releasable coupling (29), the coupling is fixable in an open released position, a lifting magnet for releasing the coupling from a closed locked position and a closing magnet for locking the coupling in the closed locked position (Column 4, line 16); **[claim**

2] wherein the closing magnet and the lifting magnet are double-acting magnets (Column 4, line 16); [claim 5] wherein a part of the coupling movable between the released position and the locked position is a toothed disc (25, Column 6, lines 8-10) which is displaceable with respect to the release device axially against the force of at least one contact pressure spring (29) but is non-rotatable.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **As best understood, Claim 3 (off claim 1 or off claim 2) is rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265).** Fink discloses the coupling operated by a linkage (14), but does not disclose the dead center position. However, Fink states that the final closing position is disclosed by the dead center position (Column 5, lines 22-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the dead center position to be in between the released position and the locked position so long as the final closing position is determined.

9. **As best understood, Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) in view of Foelix et al. (US 4,148,377).** Fink discloses the linkage (14) having a lever (24) which can be swiveled about an axis and whose arm the lifting magnet is connected, the lever moving the coupling between the

released and locked positions. Fink does not disclose the other end being coupled to a roller. However, Foelix et al. disclose an actuator that has a locking mechanism with a roller (17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified Fink's invention to have included a roller. The motivation for doing so would be to create an appropriate dead center position.

10. As best understood, Claims 6 (off claim 1 or off claim 2) and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fink (US 6,189,265) in view of Bittner et al. (US 2005/0173219). Fink does not go into detail about the magnet, however, Bittner et al. disclose at least one permanent magnet (15) that has ferromagnetic material (6) and comes so close to at least one permanent magnet that the attraction force of the permanent magnet exceeds the force of the contact pressure spring (21, 22). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have included such magnets so that the force can sustain whatever position the rail door is in.

Regarding claim 7, the combination of Fink and Bittner et al. disclose the movable part (25) consists at least essentially of ferromagnetic material and in the released position, rests on the at least one permanent magnet (Fig. 1, Bittner et al.).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Tang whose telephone number is (571) 270-5223. The examiner can normally be reached on Monday-Friday 8:00-5:00.

Art Unit: 3634

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE W MITCHELL/
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/J. T./
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